

**Senate Bill No. 1620**

**CHAPTER 264**

An act to add Section 87302.6 to the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 24, 2002. Filed with  
Secretary of State August 26, 2002.]

**LEGISLATIVE COUNSEL'S DIGEST**

**SB 1620, Knight. ` Conflict of interest.**

Existing provisions of the Political Reform Act of 1974 require a member of any of specified state commissions to file, within 30 days of assuming office, a statement disclosing his or her investments, interests in real property held on the date of assuming office, and income received during the 12 months before assuming office. A person who is subject to confirmation by the Commission on Judicial Appointments or the State Senate is required to file that statement within 10 days after appointment or nomination, and thereafter annually, and upon leaving office, as specified.

This bill would additionally require a member of a board or commission of a newly created agency to file statements of economic interests according to these requirements until the agency adopts an approved conflict-of-interest code.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on persons who violate the provisions of this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a  $\frac{2}{3}$  vote.

*The people of the State of California do enact as follows:*

SECTION 1. Section 87302.6 is added to the Government Code, to read:

87302.6. Notwithstanding Section 87302, a member of a board or commission of a newly created agency shall file a statement at the same time and in the same manner as those individuals required to file pursuant to Section 87200. A member shall file his or her statement pursuant to Section 87302 once the agency adopts an approved conflict-of-interest code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.



SENATE RULES COMMITTEE	SB 1620
Office of Senate Floor Analyses	
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# UNFINISHED BUSINESS

Bill No: SB 1620  
 Author: Knight (R), et al  
 Amended: 6/17/02  
 Vote: 27

SENATE ELECTIONS & REAP. COMMITTEE : 5-0, 5/1/02  
 AYES: Johnson, Murray, Perata, Polanco, Poochigian

SENATE APPROPRIATIONS COMMITTEE Senate Rule 28.8

SENATE FLOOR : 39-0, 5/29/02 (Consent)  
 AYES: Ackerman, Alarcon, Alpert, Battin, Bowen, Brulte,  
 Burton, Chesbro, Costa, Dunn, Escutia, Figueroa, Haynes,  
 Johannessen, Johnson, Karnette, Knight, Kuehl, Machado,  
 Margett, McClintock, McPherson, Monteith, Morrow, Murray,  
 O'Connell, Oller, Ortiz, Peace, Perata, Polanco,  
 Poochigian, Romero, Scott, Sher, Soto, Speier, Torlakson,  
 Vasconcellos

ASSEMBLY FLOOR : 74-0, 7/3/02 (Passed on Consent) - See  
 last page for vote

SUBJECT Conflict of interest

SOURCE : Author

DIGEST : This bill requires members of a board or  
 commission of a newly created agency to file statements of  
 economic interests according to the Political Reform Act  
 requirements until the agency adopts an approved conflict  
 of interest code.

CONTINUED

Assembly Amendments add co-authors and make clarifying changes.

ANALYSIS : Existing law requires members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, Fair Political Practices Commission (FPPC), and California Coastal Commission to file a statement of economic interests (SEI) disclosing their investments, interests in real property held on the date of assuming office, and income received during the 12 months before assuming office. Any of these persons who is subject to confirmation by the State Senate is required to file a SEI within 10 days after appointment or nomination while the others are required to file within 30 days of assuming office. These persons are commonly referred to as 87200 filers (a reference to Section 87200 of the Government Code).

Members of other state boards and commissions and designated employees thereof are required to file SEI's pursuant to their agency's conflict of interest code. These persons are commonly referred to as 87300 filers (a reference to Section 87300 of the Government Code), and are required to file their SEI's within 30 days of assuming office, or if subject to Senate confirmation, within 30 days of appointment or nomination.

New agencies must submit their conflict of interest codes to the FPPC for review within six months after the agency comes into existence. The FPPC then has 90 days to approve, revise, or return the code for revision. If the FPPC returns the proposed code to the agency for revision the agency must revise it and resubmit it within 60 days. An initial SEI must be filed by each designated employee within 30 days after the effective date of the conflict of interest code.

Each agency's conflict of interest code must enumerate which agency personnel must file a SEI and for each such position, the specific types of financial interests that are reportable.

FISCAL EFFECT

Appropriation: No    Fiscal Com.    Yes

SUPPORT (Verified 8/5/02)

Secretary of State

ARGUMENTS IN SUPPORT : According to the author, under current law it is possible that a person can serve on a new agency, board or commission and make decisions on rules, regulations, permits, and contracts for almost a year before they are required to file a SEI. The current law requires that a new agency submit a proposed conflict of interest code within six months after it comes into existence. Persons appointed to a new agency, board or commission then have 30 days after the adoption of the agency's conflict of interest code to file a SEI. The intent of this bill is to require all newly appointed persons to state boards or commissions to file a SEI within 30 days of appointment or assuming office.

AYES: Aanestad, Alquist, Aroner, Ashburn, Bates, Bogh, Briggs, Bill Campbell, John Campbell, Canciamilla, Cardenas, Cardoza, Chan, Chavez, Chu, Cogdill, Cohn, Corbett, Correa, Cox, Daucher, Diaz, Dickerson, Dutra, Firebaugh, Frommer, Goldberg, Havice, Hollingsworth, Horton, Jackson, Keeley, Kehoe, Kelley, Koretz, La Suer, Leach, Leonard, Leslie, Liu, Longville, Lowenthal, Maddox, Matthews, Migden, Mountjoy, Nakano, Nation, Negrete McLeod, Oropeza, Robert Pacheco, Rod Pacheco, Papan, Pavley, Pescetti, Reyes, Richman, Runner, Salinas, Shelley, Simitian, Steinberg, Strickland, Strom-Martin, Thomson, Vargas, Washington, Wayne, Wiggins, Wright, Wyland, Wyman, Zettel, Wesson

DLW:jk 8/5/02 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

END \*\*\*\*\*

Date of Hearing: June 11, 2002

ASSEMBLY COMMITTEE ON ELECTIONS, REAPPORTIONMENT AND  
CONSTITUTIONAL AMENDMENTS

John Longville, Chair

SB 1620 (Knight) - As Amended: May 14, 2002

SENATE VOTE 39-0

SUBJECT Conflict of interest

SUMMARY : Requires a member of a state board or commission of a newly created agency to file a Statement of Economic Interests (SEI) at the same time and in the same manner as elected state officers, specified elected local officers, judges, and members of the Public Utilities Commission (PUC), the Fair Political Practices Commission (FPPC), the California Coastal Commission, and the State Energy Resources Conservation and Development Commission.

EXISTING LAW

- 1) Requires each state agency and local government agency to adopt a conflict of interest code that includes the following:
  - a) Specific enumeration of the positions within the agency which involve the making of or participation in decisions which may foreseeably have a material effect on a financial interest for each enumerated position;
  - b) Requirements that each designated employee file a SEI disclosing reportable investments, business positions, interests in real property and income;
  - c) Specific provisions setting forth the circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in, or using their official position to influence the making of any decision.
- 2) Requires each new state and local government agency to submit a conflict of interest code to the FPPC for review not later than six months after the agency comes into existence. The FPPC has 90 days to review and approve the proposed code as submitted, to revise the proposed code and approve it as

revised, or to return the proposed code to the agency for revision and resubmission within 60 days.

- 3) Requires specified individuals, including elected state officers, specified elected local officers, judges, and members of the PUC, the State Energy Resources Conservation and Development Commission, the FPPC, and the California Coastal Commission to file a SEI disclosing their investments and interests in real property held on the date of assuming office and income received during the 12 months before assuming office. Persons subject to confirmation by the State Senate or the Commission on Judicial Appointments must file the SEI within 10 days after appointment or nomination, while all others must file a SEI within 30 days of assuming office.
- 4) Provides for administrative, civil, and criminal penalties for violations of the Political Reform Act of 1974 (PRA).

FISCAL EFFECT                      Unknown

COMMENTS

1) Purpose of the Bill : According to the author, "Under current law, it is possible that a person can serve on a new agency, board or commission and make decisions on rules, regulations, permits, and contracts for almost a year before they are required to file a Statement of Economic Interests (SEI) . . . SB 1620 will . . . require all newly appointed persons to state boards or commissions [to] file a Statement of Economic Interests according to [the requirements of the PRA] until the Agency adopts an approved conflict of interest code. The filing of SEI forms by members of new agencies, boards or commissions is critical, especially when many of the laws creating these boards have specific prohibitions against members who have had financial or other related dealings with the industry it oversees and regulates."

2) Timeline : Under existing law, a newly created agency would have 6 months to create and submit a proposed conflict of interest code to the FPPC, and the FPPC would have 90 days to review the proposed code. As such, even in the best of circumstances, where a proposed conflict of interest code is approved as submitted, it could take up to 9 months for a conflict of interest code to go into effect. Upon that approval, members of the agency would have an additional 30 days to file a SEI in compliance with that code. As a result,

under existing law, members of a newly created agency could hold a position in that new agency for 10 months without disclosing economic interests that could lead to a disqualifying conflict. This bill would instead require a member of a newly created agency to file an SEI within 30 days of assumption of office, at the latest. This bill does not apply to staff of newly created agencies.

3)State vs. Local Officials : This measure specifically provides that it shall apply to members of state agencies, but shall not apply to local agencies. The PRA generally does not make distinctions between state and local agencies, recognizing that officials at all levels of government make decisions that could present a financial conflict of interest. If the policy proposed by this bill is a desirable one, it is unclear why such a policy should apply only to members of newly created state boards and commissions. If it is the committee's desire to move this measure forward, the committee should consider amending this bill to make its provisions apply to local agencies.

4)Related Legislation : AB 1791 (Runner), pending in the Senate Elections Committee would require all designated state employees to file a SEI within 10 days of assuming office. That bill was approved by the Assembly by a vote of 64-3.

5)Political Reform Act of 1974 : California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders and lobbyists. Amendments to the PRA that are not submitted to the voters, such as those contained in this bill, require a 2/3 vote of both houses of the Legislature.



**Introduced by Senator Knight**

February 21, 2002

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An act to amend Section 87200 of the Government Code, relating to the Political Reform Act of 1974.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1620, as introduced, Knight. Conflict of interest.

Existing provisions of the Political Reform Act of 1974 require a member of any of specified state commissions to file, within 30 days of assuming office, a statement disclosing his or her investments, interests in real property held on the date of assuming office, and income received during the 12 months before assuming office, among other statements. A person who is subject to confirmation by the Commission on Judicial Appointments or the State Senate is required to file that statement within 10 days after appointment or nomination.

This bill would expand these requirements to a member of any state board or state commission.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on persons who violate the provisions of this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with

a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a  $\frac{2}{3}$  vote.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows.*

1 SECTION 1. Section 87200 of the Government Code is  
2 amended to read:

3 87200. This article is applicable to elected state officers,  
4 judges and commissioners of courts of the judicial branch of  
5 government, members of ~~the Public Utilities Commission,~~  
6 ~~members of the State Energy Resources Conservation and~~  
7 ~~Development Commission, members of the Fair Political~~  
8 ~~Practices Commission, members of the California Coastal~~  
9 ~~Commission~~ *state boards or state commissions*, members of  
10 planning commissions, members of the board of supervisors,  
11 district attorneys, county counsels, county treasurers, and chief  
12 administrative officers of counties, mayors, city managers, city  
13 attorneys, city treasurers, chief administrative officers and  
14 members of city councils of cities, and other public officials who  
15 manage public investments, and to candidates for any of these  
16 offices at any election.

17 SEC. 2. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.

26 SEC. 3. The Legislature finds and declares that the provisions  
27 of this act further the purposes of the Political Reform Act of 1974  
28 within the meaning of subdivision (a) of Section 81012 of the  
29 Government Code.

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